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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the Federal Communications Commission
Washington, DC 20554

In the Matter of

Applications of Worldcom, Inc.
and MCI Communiations
Corporation for Tranfer
of Control of MCI Communications
to Worldcom, Inc.

CC Docket No. 97-211

Reply Comments of Consumer Project on Technology

The Federal Communications Commission (FCC) should reject the proposed Worldcom/MCI merger on the grounds that it is anticompetitive. As pointed out by several parties in the initial round of comments, Worldcom and MCI are competitors in nearly every aspect of their operations, including long distance telephony over the public switched network (PSN), provisioning of private lines for voice and data, local exchange service, providing Internet access and backbone transport and other related services. The merger will combine two of the four facilities based long distance companies and give the merged entity immediate control of 40 to 60 percent of Internet backbone traffic. The reduction in competition will harm consumers, and merger will give a single firm too much power to shape the future of the Internet.

Our comments will be brief.

Worldcom is only the fourth facilities based long distance telephone company of any national consequence. The Commission should evaluate the impact of Worldcom's relatively recent emergence as a facilities based long distance competitor on the rate of change in prices for long distance service. The Commission should specifically determine if Worldcom destabilized cartel pricing by AT&T, MCI and Sprint, and if Worldcom's discounts to resellers played an important role in the large decreases in long distance rates since 1995.

Worldcom's market share was less than 2 percent in 1993, but grew to nearly 5 percent by 1995 (based upon toll service revenues). A quick look at revenues per minute for all IXCs, net of access fees, show a decline of 3.6 percent from 1993 to 1994, and decline of 7.5 percent between 1994 and 1995. Comments from several of the parties in the first round indicate that Worldcom has become an important supplier of lines to price cutting resellers. Entry barriers for facilities based long distance service are non-trivial, judging in part by the very long delays before Worldcom emerged as the fourth significant player in this market. The merger by Worldcom and MCI

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would combine the numbers 2 and 4 firms, and change Worldcom's role from an aggressive outsider seeking to expand its market share to one of the established members of the cartel.

Even more troubling is the increased control over Internet backbone traffic. Several of the first round of comments addressed the fact that the merger would give Worldcom/MCI from 40 to 60 percent of the Internet backbone traffic. Such a huge concentration of critical Internet infrastructure facilities raises all sorts of alarms.

We are particularly concerned about the ability of a highly concentrated group of backbone operators to impose (particular) systems of settlements or other changes in the economic models of the Internet which suit the interests of Worldcom/MCI, but which may not have been feasible in a more competitive market structure.

The Internet's astonishing success is based upon the fact the no one entity has been able to exercise excessive market control. This merger, if approved, will change that.

Worldcom, the senior partner in the merger, is the owner of UUNET, a firm engaged in controversies over Worldcom's very aggressive attempts to restrict peering, and to raise other barriers making it difficult for smaller ISPs to survive. Worldcom predicts the number of Internet Service Providers will fall from 1,800 in 1995 to less than 100 in two years.
(http://206.65.84.57/investor/keynote/Sidgmore2.pdf)

We asked persons who are knowledgeable about Internet backbone issues to identify areas where the larger ISPs currently create entry barriers and unlevel playing fields, which would be made worse by the merger. The following are some of the comments we received:

1. Operational requirements for new peers that are not required of existing peers, or holding new peers to higher technical standards. Some potential areas for unlevel requirements are: packet-counting architecture, routing protocol architecture, disaster planning and contingency equipment, and security architecture.

2. Claiming a public policy of not routing CIDR masks below a certain length, and holding new peers to this policy. However, short masks are routinely routed for existing peers, who are grandfathered in.

3. Starving new entrants of IP address space to assign to their customers. Failure to reallocate scarce address space away from old peers and evenly among all peers. This may not apply to backbone carriers, who probably should be getting addresses from the NIC.

4. Arranging routes between existing peers so new entrants' packets travel an unnecessarily long path. Intentional failure to reengineer routes as new peers connect, producing same result with less liability.

5. Non-disclosure agreements that prevent public price disclosure, comparison, or advertising. For instance UUNET's insistence on a non-disclosure agreement before the prices and terms for a backbone peering arrangement are disclosed.

6. Lack of independent technical audit data to validate claims of how a potential new peering arrangement will perform.

7. Pricing a new peering arrangement higher than the rate for existing peers, then claiming all peering arrangements are custom deals so prices can't be compared.

8. Refusing to sell available service to new entrants on the grounds it isn't available, yet selling it to existing peers. Or temporarily refusing to sell available capacity at all and waiting for new entrants to starve.

9. Selectively selling bandwidth below cost to destroy new entrants.

For these and the reasons stated by parties in the first round of comments, CPT opposes the Worldcom/MCI merger.

Sincerely,

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